

AMENDMENT TO
OFFERED BY MR. PALLONE OF NEW JERSEY

In title II, after section 207, insert the following:

1 **SEC. 208. FEDERAL RENEWABLE PORTFOLIO STANDARD.**

2 (a) .—

3 (b) IN GENERAL.—Title VI of the Public Utility Reg-
4 ulatory Policies Act of 1978 is amended by adding at the
5 end the following:

6 **“SEC. 609. FEDERAL RENEWABLE PORTFOLIO STANDARD.**

7 “(a) MINIMUM RENEWABLE GENERATION REQUIRE-
8 MENT.—For each calendar year beginning in calendar
9 year 2008, each retail electric supplier shall submit to the
10 Secretary, not later than April 1 of the following calendar
11 year, renewable energy credits in an amount equal to the
12 required annual percentage specified in subsection (b).

13 “(b) REQUIRED ANNUAL PERCENTAGE.—For cal-
14 endar years 2008 through 2037, the required annual per-
15 centage of the retail electric supplier’s base amount that
16 shall be generated from renewable energy resources, or
17 otherwise credited towards such percentage requirement
18 pursuant to subsection (c), shall be the percentage speci-
19 fied in the following table:



“ Calendar Years	Required annual percentage
2008	1
2009	2
2010	3
2011	4
2012	5
2013	6
2014	7
2015	8
2016	9
2017	10
2018	11
2019	12
2020	13
2021	14
2022	15
2023	16
2024	17
2025	18
2026	19
2027 and thereafter	20

1 “(c) RENEWABLE ENERGY CREDITS.—(1) A retail
2 electric supplier may satisfy the requirements of sub-
3 section (a) through the submission of renewable energy
4 credits—

5 “(A) issued to the retail electric supplier under
6 subsection (d);

7 “(B) obtained by purchase or exchange under
8 subsection (e) or (g); or

9 “(C) borrowed under subsection (f).

10 “(2) A renewable energy credit may be counted to-
11 ward compliance with subsection (a) only once.

12 “(d) ISSUANCE OF CREDITS.—(1) The Secretary
13 shall establish by rule, not later than 1 year after the date
14 of enactment of this section, a program to verify and issue



1 renewable energy credits, track their sale, exchange and
2 submission, and enforce the requirements of this section.

3 “(2) An entity that generates electric energy through
4 the use of a renewable energy resource may apply to the
5 Secretary for the issuance of renewable energy credits.
6 The applicant must demonstrate that the electric energy
7 will be transmitted onto the grid or, in the case of a gen-
8 eration offset, that the electric energy offset would have
9 otherwise been consumed on site. The application shall
10 indicate—

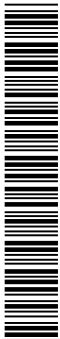
11 “(A) the type of renewable energy resource used
12 to produce the electricity;

13 “(B) the location where the electric energy was
14 produced; and

15 “(C) any other information the Secretary deter-
16 mines appropriate.

17 “(3)(A) Except as provided in subparagraphs (B),
18 (C), and (D), the Secretary shall issue to each entity that
19 generates electric energy one renewable energy credit for
20 each kilowatt hour of electric energy the entity generates
21 from the date of enactment of this section and in each
22 subsequent calendar year through the use of a renewable
23 energy resource at an eligible facility.

24 “(B) For incremental hydropower the renewable en-
25 ergy credits shall be calculated based on the expected in-



1 crease in average annual generation resulting from the ef-
2 ficiency improvements or capacity additions. The number
3 of credits shall be calculated using the same water flow
4 information used to determine a historic average annual
5 generation baseline for the hydroelectric facility and cer-
6 tified by the Secretary or the Federal Energy Regulatory
7 Commission. The calculation of the renewable energy cred-
8 its for incremental hydropower shall not be based on any
9 operational changes at the hydroelectric facility not di-
10 rectly associated with the efficiency improvements or ca-
11 pacity additions.

12 “(C) The Secretary shall issue two renewable energy
13 credits for each kilowatt hour of electric energy generated
14 and supplied to the grid in that calendar year through the
15 use of a renewable energy resource at an eligible facility
16 located on Indian land. For purposes of this paragraph,
17 renewable energy generated by biomass cofired with other
18 fuels is eligible for two credits only if the biomass was
19 grown on such land.

20 “(D) For electric energy generated by a renewable
21 energy resource at an on-site eligible facility, used to offset
22 part or all of the customer’s requirements for electric en-
23 ergy, the Secretary shall issue three renewable energy
24 credits for each kilowatt hour generated.



1 “(E) In the case of a retail electric supplier that is
2 subject to a State renewable standard program that—

3 “(i) requires the generation of electricity from
4 renewable energy; or

5 “(ii) provides for alternative compliance pay-
6 ments in satisfaction of applicable State require-
7 ments under the program,

8 the Secretary shall issue an amount of renewable energy
9 credits equal to the amount of renewable energy credits
10 that the Secretary would have issued had a payment of
11 the same amount been made to the Secretary under sub-
12 section (g). Such renewable energy credits may be applied
13 against the retail electric supplier’s own required annual
14 percentage or may be transferred for use only by an asso-
15 ciate company of the retail electric supplier.

16 “(F) To be eligible for a renewable energy credit, the
17 unit of electric energy generated through the use of a re-
18 newable energy resource may be sold or may be used by
19 the generator. If both a renewable energy resource and
20 a non-renewable energy resource are used to generate the
21 electric energy, the Secretary shall issue renewable energy
22 credits based on the proportion of the renewable energy
23 resources used. The Secretary shall identify renewable en-
24 ergy credits by type and date of generation.



1 “(4) When a generator sells electric energy generated
2 through the use of a renewable energy resource to a retail
3 electric supplier under a contract subject to section 210
4 of this Act, the retail electric supplier is treated as the
5 generator of the electric energy for the purposes of this
6 section or the duration of the contract.

7 “(5) The Secretary shall issue renewable energy cred-
8 its for existing facility offsets to be applied against a retail
9 electric supplier’s required annual percentage. Such cred-
10 its are not tradeable and may be used only in the calendar
11 year generation actually occurs.

12 “(e) RENEWABLE ENERGY CREDIT TRADING.—A re-
13 newable energy credit, may be sold, transferred or ex-
14 changed by the entity to whom issued or by any other enti-
15 ty who acquires the renewable energy credit, except for
16 those renewable energy credits issued pursuant to sub-
17 section (d)(3)(E). A renewable energy credit for any year
18 that is not used to satisfy the minimum renewable genera-
19 tion requirement of subsection (a) for that year may be
20 carried forward for use within the next 4 years.

21 “(f) RENEWABLE ENERGY CREDIT BORROWING.—At
22 any time before the end of calendar year 2010, a retail
23 electric supplier that has reason to believe it will not have
24 sufficient renewable energy credits to comply with sub-
25 section (a) may—



1 “(1) submit a plan to the Secretary dem-
2 onstrating that the retail electric supplier will earn
3 sufficient credits within the next 3 calendar years
4 which, when taken into account, will enable the re-
5 tail electric supplier to meet the requirements of
6 subsection (a) for calendar year 2010 and the subse-
7 quent calendar years involved; and

8 “(2) upon the approval of the plan by the Sec-
9 retary, apply renewable energy credits that the plan
10 demonstrates will be earned within the next 3 cal-
11 endar years to meet the requirements of subsection
12 (a) for each calendar year involved.

13 The retail electric supplier must repay all of the borrowed
14 renewable energy credits by submitting an equivalent
15 number of renewable energy credits, in addition to those
16 otherwise required under subsection (a), by calendar year
17 2008 or any earlier deadlines specified in the approved
18 plan. Failure to repay the borrowed renewable energy
19 credits shall subject the retail electric supplier to civil pen-
20 alties under subsection (h) for violation of the require-
21 ments of subsection (a) for each calendar year involved.

22 “(g) CREDIT COST CAP.—The Secretary shall offer
23 renewable energy credits for sale at the lesser of 3 cents
24 per kilowatt-hour or 200 percent of the average market
25 value of renewable credits for the applicable compliance



1 period. On January 1 of each year following calendar year
2 2006, the Secretary shall adjust for inflation the price
3 charged per credit for such calendar year, based on the
4 Gross Domestic Product Implicit Price Deflator.

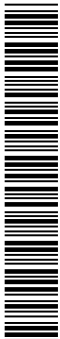
5 “(h) ENFORCEMENT.—A retail electric supplier that
6 does not submit renewable energy credits as required
7 under subsection (a) shall be liable for the payment of a
8 civil penalty. That penalty shall be calculated on the basis
9 of the number of renewable energy credits not submitted,
10 multiplied by the lesser of 4.5 cents or 300 percent of the
11 average market value of credits for the compliance period.
12 Any such penalty shall be due and payable without de-
13 mand to the Secretary as provided in the regulations
14 issued under subsection (d).

15 “(i) INFORMATION COLLECTION.—The Secretary
16 may collect the information necessary to verify and
17 audit—

18 “(1) the annual electric energy generation and
19 renewable energy generation of any entity applying
20 for renewable energy credits under this section;

21 “(2) the validity of renewable energy credits
22 submitted by a retail electric supplier to the Sec-
23 retary; and

24 “(3) the quantity of electricity sales of all retail
25 electric suppliers.



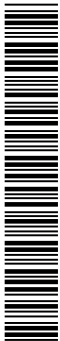
1 “(j) ENVIRONMENTAL SAVINGS CLAUSE.—Incre-
2 mental hydropower shall be subject to all applicable envi-
3 ronmental laws and licensing and regulatory requirements.

4 “(k) EXISTING PROGRAMS.—(1) This section does
5 not preclude a State from imposing additional renewable
6 energy requirements in that State, including specifying eli-
7 gible technologies under such State requirements.

8 “(2) In the rule establishing this program, the Sec-
9 retary shall incorporate common elements of existing re-
10 newable energy programs, including state programs, to en-
11 sure administrative ease, market transparency and effec-
12 tive enforcement. The Secretary shall work with the States
13 to minimize administrative burdens and costs and to avoid
14 duplicating compliance charges to retail electric suppliers.

15 “(l) DEFINITIONS.—For purposes of this section:

16 “(1) BIOMASS.—The term ‘biomass’ means any
17 organic material that is available on a renewable or
18 recurring basis, including dedicated energy crops,
19 trees grown for energy production, wood waste and
20 wood residues, plants (including aquatic plants,
21 grasses, and agricultural crops), residues, fibers,
22 animal wastes and other organic waste materials
23 (but not including unsegregated municipal solid
24 waste (garbage)), and fats and oils, except that with
25 respect to material removed from National Forest



1 System lands the term includes only organic mate-
2 rial from—

3 “(A) precommercial thinnings;

4 “(B) slash;

5 “(C) brush; and

6 “(D) mill residues.

7 “(2) ELIGIBLE FACILITY.—The term ‘eligible
8 facility’ means—

9 “(A) a facility for the generation of electric
10 energy from a renewable energy resource that is
11 placed in service on or after the date of enact-
12 ment of this section or the effective date of the
13 applicable State renewable portfolio standard
14 program; or

15 “(B) a repowering or cofiring increment
16 that is placed in service on or after the date of
17 enactment of this section or the effective date
18 of the applicable State renewable portfolio
19 standard program, at a facility for the genera-
20 tion of electric energy from a renewable energy
21 resource that was placed in service before that
22 date.

23 “(3) EXISTING FACILITY OFFSET.—The term
24 ‘existing facility offset’ means renewable energy gen-
25 erated from an existing facility, not classified as an



1 eligible facility, that is owned or under contract, di-
2 rectly or indirectly, to a retail electric supplier on
3 the date of enactment of this section.

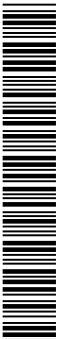
4 “(4) INCREMENTAL HYDROPOWER.—The term
5 ‘incremental hydropower’ means additional genera-
6 tion that is achieved from increased efficiency or ad-
7 ditions of capacity on or after the date of enactment
8 of this section or the effective date of the applicable
9 State renewable portfolio standard program, at a hy-
10 droelectric facility that was placed in service before
11 that date.

12 “(5) INDIAN LAND.—The term ‘Indian land’
13 means—

14 “(A) any land within the limits of any In-
15 dian reservation, pueblo, or rancheria;

16 “(B) any land not within the limits of any
17 Indian reservation, pueblo, or rancheria title to
18 which was on the date of enactment of this
19 paragraph either held by the United States for
20 the benefit of any Indian tribe or individual or
21 held by any Indian tribe or individual subject to
22 restriction by the United States against alien-
23 ation;

24 “(C) any dependent Indian community;
25 and



1 “(D) any land conveyed to any Alaska Na-
2 tive corporation under the Alaska Native
3 Claims Settlement Act.

4 “(6) INDIAN TRIBE.—The term ‘Indian tribe’
5 means any Indian tribe, band, nation, or other orga-
6 nized group or community, including any Alaskan
7 Native village or regional or village corporation as
8 defined in or established pursuant to the Alaska Na-
9 tive Claims Settlement Act (43 U.S.C. 1601 et seq.),
10 which is recognized as eligible for the special pro-
11 grams and services provided by the United States to
12 Indians because of their status as Indians.

13 “(7) RENEWABLE ENERGY.—The term ‘renew-
14 able energy’ means electric energy generated by a re-
15 newable energy resource.

16 “(8) RENEWABLE ENERGY RESOURCE.—The
17 term ‘renewable energy resource’ means solar (in-
18 cluding solar water heating), wind, ocean, geo-
19 thermal energy, biomass, landfill gas, or incremental
20 hydropower.

21 “(9) REPOWERING OR COFIRING INCREMENT.—
22 The term ‘repowering or cofiring increment’
23 means—

24 “(A) the additional generation from a
25 modification that is placed in service on or after



1 the date of enactment of this section or the ef-
2 fective date of the applicable State renewable
3 portfolio standard program, to expand elec-
4 tricity production at a facility used to generate
5 electric energy from a renewable energy re-
6 source or to cofire biomass that was placed in
7 service before the date of enactment of this sec-
8 tion or the effective date of the applicable State
9 renewable portfolio standard program; or

10 “(B) the additional generation above the
11 average generation in the 3 years preceding the
12 date of enactment of this section or the effec-
13 tive date of the applicable State renewable port-
14 folio standard program, to expand electricity
15 production at a facility used to generate electric
16 energy from a renewable energy resource or to
17 cofire biomass that was placed in service before
18 the date of enactment of this section or the ef-
19 fective date of the applicable State renewable
20 portfolio standard program.

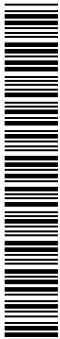
21 “(10) RETAIL ELECTRIC SUPPLIER.—The term
22 ‘retail electric supplier’ means a person that sells
23 electric energy to electric consumers and sold not
24 less than 1,000,000 megawatt-hours of electric en-
25 ergy to electric consumers for purposes other than



1 resale during the preceding calendar year; except
2 that such term does not include the United States,
3 a State or any political subdivision of a State, or any
4 agency, authority, or instrumentality of any one or
5 more of the foregoing, or a rural electric cooperative.

6 “(11) RETAIL ELECTRIC SUPPLIER’S BASE
7 AMOUNT.—The term ‘retail electric supplier’s base
8 amount’ means the total amount of electric energy
9 sold by the retail electric supplier, expressed in
10 terms of kilowatt hours, to electric customers for
11 purposes other than resale during the most recent
12 calendar year for which information is available, ex-
13 cluding electric energy generated by a hydroelectric
14 facility.

15 “(m) RECOVERY OF COSTS.—An electric utility
16 whose sales of electric energy are subject to rate regula-
17 tion, including any utility whose rates are regulated by the
18 Commission and any State regulated electric utility, shall
19 not be denied the opportunity to recover the full amount
20 of the prudently incurred incremental cost of renewable
21 energy obtained to comply with the requirements of sub-
22 section (a) for sales to electric customers which are subject
23 to rate regulation, notwithstanding any other law, regula-
24 tion, rule, administrative order or any agreement between
25 the electric utility and either the Commission or a State



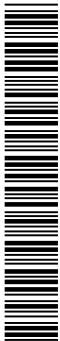
1 regulatory authority. For the purpose of this subsection,
2 the term ‘incremental cost of renewable energy’ means—

3 “(1) the additional cost to the electric utility for
4 the purchase or generation of renewable energy to
5 satisfy the minimum renewable generation require-
6 ment of subsection (a), as compared to the cost of
7 the electric energy the electric utility would generate
8 or purchase from another source but for the require-
9 ments of subsection (a); and

10 “(2) the cost to the electric utility for acquiring
11 by purchase or exchange renewable energy credits to
12 satisfy the minimum renewable generation require-
13 ment of subsection (a).

14 For purposes of this subsection, the definitions in section
15 3 of this Act shall apply to the terms ‘electric utility’,
16 ‘State regulated electric utility’, ‘State agency’, ‘Commis-
17 sion’, and ‘State regulatory authority’.

18 “(n) VOLUNTARY PARTICIPATION.—The Secretary
19 shall encourage federally-owned utilities, municipally-
20 owned utilities and rural electric cooperatives that sell
21 electric energy to electric consumers for purposes other
22 than resale to participate in the renewable portfolio stand-
23 ard program. A municipally-owned utility or rural electric
24 cooperative that owns or has under contract a facility for
25 the generation of electric energy from a renewable energy



1 resource may not sell or trade renewable energy credits
2 generated by such resource unless it participates in the
3 renewable portfolio standard program under the same
4 terms and conditions as retail electric suppliers.

5 “(o) PROGRAM REVIEW.—The Secretary shall con-
6 duct a comprehensive evaluation of all aspects of the Re-
7 newable Portfolio Standard program, within 10 years of
8 enactment of this section. The study shall include an eval-
9 uation of—

10 “(1) the effectiveness of the program in increas-
11 ing the market penetration and lower the cost of the
12 eligible renewable technologies;

13 “(2) the opportunities for any additional tech-
14 nologies emerging since enactment of this section;

15 “(3) the impact on the regional diversity and
16 reliability of supply sources, including the power
17 quality benefits of distributed generation;

18 “(4) the regional resource development relative
19 to renewable potential and reasons for any under in-
20 vestment in renewable resources; and

21 “(5) the net cost/benefit of the renewable port-
22 folio standard to the national and state economies,
23 including retail power costs, economic development
24 benefits of investment, avoided costs related to envi-
25 ronmental and congestion mitigation investments



1 that would otherwise have been required, impact on
2 natural gas demand and price, effectiveness of green
3 marketing programs at reducing the cost of renew-
4 able resources.

5 The Secretary shall transmit the results of the program
6 review and any recommendations for modifications and
7 improvements to the program to Congress not later than
8 January 1, 2014.

9 “(p) PROGRAM IMPROVEMENTS.—Using the results
10 of the review under subsection (o), the Secretary shall by
11 rule, within 6 months of the completion of the review,
12 make such modifications to the program as may be nec-
13 essary to improve the efficiency of the program and maxi-
14 mize the use of renewable energy under the program.

15 “(q) STATE RENEWABLE ENERGY ACCOUNT PRO-
16 GRAM.—(1) The Secretary shall establish, not later than
17 December 31, 2007, a State renewable energy account
18 program.

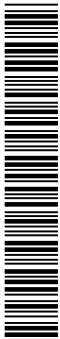
19 “(2) All money collected by the Secretary from the
20 sale of renewable energy credits shall be deposited into the
21 state renewable energy account established pursuant to
22 this subsection. The State renewable energy account shall
23 be held by the Secretary and shall not be transferred to
24 the Treasury Department.



1 “(3) Proceeds deposited in the state renewable energy
2 account shall be used by the Secretary for a program to
3 provide grants to the State agency responsible for devel-
4 oping State energy conservation plans under section 363
5 of the Energy Policy and Conservation Act (42 U.S.C.
6 6322) for the purposes of promoting renewable energy
7 production and providing energy assistance and weather-
8 ization services to low-income consumers.

9 “(4) The Secretary may issue guidelines and criteria
10 for grants awarded under this subsection. At least 75 per-
11 cent of the funds provided to each State shall be used for
12 promoting renewable energy production. The funds shall
13 be allocated to the states on the basis of retail electric
14 sales subject to the Renewable Portfolio Standard under
15 this section or through voluntary participation. To the ex-
16 tent Federal credits have been issued without payment due
17 to reciprocity with state programs under subsection
18 (d)(3)(E), deductions shall be made from the relevant
19 state’s allocation. State energy offices receiving grants
20 under this section shall maintain such records and evi-
21 dence of compliance as the Secretary may require.

22 “(r) SUNSET.—This section expires December 31,
23 2037.”.



- 1 (c) TABLE OF CONTENTS.—The table of contents for
- 2 such title is amended by adding the following new item
- 3 at the end:

“Sec. 609. Federal renewable portfolio standard.”.

